

## REMARKS

Prior to this amendment, Claims 1-14 were pending in the application, with Claims 1, 4, 8 and 10 being written in independent form.

The Examiner rejected Claims 10-14 under 35 U.S.C. §101 as being non-statutory. The Examiner rejected Claims 1-2, 4-5 and 11-12 under 35 U.S.C. §102(b) as being anticipated by “Reliable Multicast Transport Protocol” to *Paul et al.* (hereinafter *Paul*). The Examiner rejected Claims 6, 8-9 and 13 under 35 U.S.C. §102(b) as being anticipated by EPA 01303442.6 to *Sato et al.* (hereinafter *Sato*). The Examiner rejected Claims 10 and 14 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,065,066 to *Mizutani et al.* (hereinafter *Mizutani*). Under 35 U.S.C. §103(a), the Examiner rejected Claim 3 as being unpatentable over *Paul* in view of *Mizutani*, and Claim 7 as being unpatentable over *Sato* in view of *Paul*.

Please amend the specification as set forth herein. Please cancel Claims 7 and 14 without prejudice. Please amend Claims 6 and 10-13 as set forth herein. No new matter has been added. Accordingly, Claims 1-6 and 8-13 are currently pending herein.

Regarding the §101 rejection of Claims 10-14, the Examiner alleged that Claims 10-14 are directed to non-statutory subject matter. It is respectfully asserted that the Examiner’s rejection appears to fall short of presenting a *prima facie* case for unpatentability under §101 because the Examiner merely alleged that these claims do not fall within a statutory category of invention, and failed to complete the statutory subject matter analysis such as whether a judicial exception applied, as required under the applicable USPTO Interim Guidelines.

However, Applicants have amended these claims so as to comply with the current §101 requirements. Particularly, Claim 10 has been amended to recite “A computer readable medium” language. Accordingly, Claim 14 would have been redundant, and therefore has been deleted. Claims 11-13 have also been amended to comply with the current requirements. It is respectfully submitted that at least these amendments cure the §101 rejection, and withdrawal of the same is

respectfully requested.

As a footnote to the above discussion, the Examiner noted in the §101 rejection that the specification recites that a computer readable medium is defined as carrier waves (see page 14, 1<sup>st</sup> paragraph), which the Examiner alleged is non-statutory. In response, Applicants have amended the specification to delete the recitation, “and carrier waves (e.g., transmissions over the Internet)” from the 1<sup>st</sup> paragraph on page 14.

Regarding the §102(b) rejection of Claims 1-2, 4-5 and 11-12, the Examiner alleged that *Paul* discloses each and every element of the rejected claims. Applicants respectfully traverse. Claim 1 recites, *inter alia*, grouping wireless terminals based on distances between an access point and the wireless terminals and amplitudes of signals output from the wireless terminals. *Paul* discloses, in the passages cited by the Examiner, that each DR (or designated receiver) sends a packet including a TTL value to a given receiver. The higher the TTL value, the closer the DR is to the receiver. In this manner, *Paul* determines a local region to be defined around each DR. Accordingly, it is respectfully asserted that *Paul* considers distances between an access point and the wireless terminals. However, *Paul* fails to consider grouping wireless terminals based on amplitudes of signals output from the wireless terminals, as recited in Claim 1.

Claim 4 recites, *inter alia*, receiving a retransmission command from the access point and retransmitting the multicast packets to other wireless terminals. It is respectfully asserted that *Paul* fails to disclose this recitation. The Examiner cited page 409, paragraph 2 (the Examiner is apparently referring to paragraph 2 in the second column, because that is where the text recited by the Examiner appears), but nowhere in this paragraph is there discussed the access point (or access node (AN) in *Paul*). Moreover, it is respectfully asserted that there is no disclosure of receiving a retransmission command, let alone from an access point, in these cited passages of *Paul*. Accordingly, Applicants respectfully submit that *Paul* fails to disclose each and every element of Claims 1-2, 4-5 and 11-12, as the Examiner alleged.

Regarding the §102(b) rejection of Claims 6, 8-9 and 13, the Examiner alleged that *Sato*

discloses each and every element of the rejected claims. In response, Applicants have amended Claim 6 to include the recitations found in Claim 7, now cancelled.

Regarding the rejection of Claim 7 under §103(a), the recitations in Claim 7 have been inserted in to Claim 6, as set forth herein. The amendment renders this rejection moot. Claim 6 now recites, *inter alia*, transmitting a retransmission command to the repeaters in the order in which the repeaters retransmit the multicast packets. It is respectfully asserted that *Sato* fails to teach this recitation. *Paul* discloses, in the passages cited by the Examiner, that DRs retransmit lost packets to the receivers in their respective local regions. However, it is respectfully asserted that *Paul* fails to teach or disclose transmitting a retransmission command to the repeaters in the order in which the repeaters retransmit the multicast packets. Accordingly, it is respectfully submitted that the rejection of Claim 7 is incorrect, and should be withdrawn. Withdrawal of the same is respectfully requested.

Regarding the §102(b) rejection of claim 8, the Examiner alleged that a repeater selecting and retransmission order arranging unit which selects the repeater to retransmit the multicast packets from each group, and arranges the order in which repeaters retransmit the multicast packets corresponds to the information delivery unit of *Sato*, (Figure 5, element 24) which performs a control to retransmit multicast information. However, it is respectfully asserted that *Sato* merely discloses the information delivery unit which controls to retransmit multicast information upon request for retransmission from the mobile stations 10 (see col 6, lines 25-27), but does not disclose a repeater selecting and retransmission order arranging unit which selects the repeater to retransmit the multicast packets from each group, and arranges the order in which repeaters retransmit the multicast packets.

Regarding the §102(e) rejection of claim 10, Applicants respectfully traverse. The Examiner alleged that “information about the number of multicast packet in each group which indicates the number of multicast packets in each group, the multicast packet being transmitted after the multicast packet train header is multicasted”, corresponds to the header which is element 30 of Figure 3 and the group management table which is element 11 of Figure 4 of *Muzutani*.

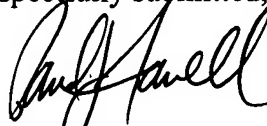
However, Figure 3 merely discloses the header and Figure 4 merely discloses the group management table including Group # and Terminal ID. Applicants respectfully assert that they do not disclose “information about the number of multicast packet in each group which indicates the number of multicast packets in each group”, as recited in Claim 10. Accordingly, withdrawal of the rejection of Claims 10 and 14 is respectfully requested.

Regarding the rejection of Claim 3 under §103(a), Applicants respectfully submit that this rejection should be withdrawn at least in view of the arguments with regard to the rejection of Claims 1-2, 4-5 and 11-12 above, and further, since *Mizutani* fails to cure the stated deficiencies in *Paul*. Accordingly, withdrawal of the same is respectfully requested

Independent Claims 1, 4, 6, 8 and 10 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 3, 5, 9 and 11-13, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 3, 5, 9 and 11-13 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-6 and 8-13, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over the typed name.

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